

allow effective conservation and management of the species consistent with the requirements of the Act and this part.

(c) When revocation of a management authority pursuant to paragraph (a) of this section becomes final, or when a state returns management pursuant to paragraph (b) of this section, the Service shall resume such management authority and provide for the conservation of the species within the state in accordance with the provisions of the Act.

**§ 403.08 List of States to which management has been transferred.**

The following states have received management authority pursuant to this part for the species listed and, where appropriate, cooperative allocation agreements pursuant to § 403.05(c) are in force: [Reserved].

**PART 424—LISTING ENDANGERED AND THREATENED SPECIES AND DESIGNATING CRITICAL HABITAT**

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424.21 Periodic review.

AUTHORITY: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

SOURCE: 49 FR 38908, Oct. 1, 1984, unless otherwise noted.

**Subpart A—General Provisions**

**§ 424.01 Scope and purpose.**

(a) Part 424 provides rules for revising the Lists of Endangered and Threatened Wildlife and Plants and, where appropriate, designating or revising their critical habitats. Criteria are provided for determining species to be endangered or threatened and for designating critical habitats. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of listed species also are established.

(b) The purpose of these rules is to interpret and implement those portions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), that pertain to the listing of species and the determination of critical habitats.

**§ 424.02 Definitions.**

(a) The definitions of terms in 50 CFR 402.02 shall apply to this part 424, except as otherwise stated.

(b) *Candidate* means any species being considered by the Secretary for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.

(c) *Conservation, conserve, and conserving* mean to use and the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(d) *Critical habitat* means (1) the specific areas within the geographical area currently occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) that may require special management considerations or protection, and

(2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species.

(e) *Endangered species* means a species that is in danger of extinction throughout all or a significant portion of its range.

(f) *List* or *lists* means the Lists of Endangered and Threatened Wildlife and Plants found at 50 CFR 17.11(h) or 17.12(h).

(g) *Plant* means any member of the plant kingdom, including, without limitation, seeds, roots, and other parts thereof.

(h) *Public hearing* means an informal hearing to provide the public with the opportunity to give comments and to permit an exchange of information and opinion on a proposed rule.

(i) *Secretary* means the Secretary of the Interior or the Secretary of Commerce, as appropriate, or their authorized representatives.

(j) *Special management considerations or protection* means any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species.

(k) *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any vertebrate species that interbreeds when mature. Excluded is any species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of the Act would present an overwhelming and overriding risk to man.

(l) *State agency* means any State agency, department, board, commission, or other governmental entity that is responsible for the management and conservation of fish, plant, or wildlife resources within a State.

(m) *Threatened species* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(n) *Wildlife or fish and wildlife* means any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes

any part, product, egg, or offspring thereof, or the dead body or parts thereof.

## Subpart B—Revision of the Lists

### § 424.10 General.

The Secretary may add a species to the lists or designate critical habitat, delete a species or critical habitat, change the listed status of a species, revise the boundary of an area designated as critical habitat, or adopt or modify special rules (see 50 CFR 17.40–17.48 and parts 222 and 227) applied to a threatened species only in accordance with the procedures of this part.

### § 424.11 Factors for listing, delisting, or reclassifying species.

(a) Any species or taxonomic group of species (e.g., genus, subgenus) as defined in § 424.02(k) is eligible for listing under the Act. A taxon of higher rank than species may be listed only if all included species are individually found to be endangered or threatened. In determining whether a particular taxon or population is a species for the purposes of the Act, the Secretary shall rely on standard taxonomic distinctions and the biological expertise of the Department and the scientific community concerning the relevant taxonomic group.

(b) The Secretary shall make any determination required by paragraphs (c) and (d) of this section *solely* on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such determination.

(c) A species shall be listed or reclassified if the Secretary determines, on the basis of the best scientific and commercial data available after conducting a review of the species' status, that the species is endangered or threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Over utilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;